

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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In the Matter of

Amendment of Section 73.202(b),  
Table of Allotments,  
FM Broadcast Stations.  
(Memphis and Arlington, Tennessee,  
and Saint Florian, Alabama)

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MB Docket No. 05-140  
RM-11225

**REPORT AND ORDER**  
**(Proceeding Terminated)**

Adopted: February 2, 2006

Released: February 6, 2006

By the Assistant Chief, Audio Division, Media Bureau:

1. The Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*<sup>1</sup> proposing changes in the FM Table of Allotments, 47 C.F.R. § 73.202(b). In response to a petition filed by Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of Station WEGR(FM), Channel 274C1, Memphis, Tennessee, the *Notice* proposes to change the community of license for Station WEGR(FM) from Memphis to Arlington, Tennessee. Clear Channel's request was filed pursuant to the provisions of Section 1.420(i) of the Commission's Rules, which permits the modification of a station's authorization to specify a new community of license without affording other interested parties the opportunity to file competing expressions of interest in the proposed allotment. In order to accommodate the reallocation of Channel 274C1 at Arlington, Tennessee, Clear Channel proposes to modify the site of vacant Channel 274A at Saint Florian, Alabama. Clear Channel represents that if its request is granted, it will file an application to modify the facilities of Station WEGR(FM) to specify operation on Channel 274C1 at Arlington, Tennessee. Clear Channel filed comments supporting the changes proposed in the *Notice*.

2. In determining whether to approve a change of community, we compare the existing versus the proposed arrangement of allotments using the FM allotment priorities set forth in *Revision of FM Assignment Policies and Procedures*.<sup>2</sup> Retention of Channel 274C1 at Memphis would satisfy only the fourth allotment priority, "other public interest matters," whereas the proposed reallocation of Channel 274C1 at Arlington would satisfy the third allotment priority, "first local service."<sup>3</sup>

3. Station WEGR(FM) currently provides a 70 dBu signal to 100 percent of the Memphis

<sup>1</sup> *Memphis and Arlington, Tennessee, and Saint Florian, Alabama*, 20 FCC Rcd 6234 (MB 2005) ("Notice").

<sup>2</sup> 90 FCC 2d 88 (1982), *recon. denied*, 56 RR 2d 448 (1983). The FM allotment priorities are: (1) first full-time aural service; (2) second full-time aural service; (3) first local service; and (4) other public interest matters. Co-equal weight is given to priorities (2) and (3).

<sup>3</sup> Memphis will continue to be served by numerous AM and FM stations.

Urbanized Area, and the 70 dBu contour of Station WEGR(FM) at Arlington would continue to cover 100 percent of the Memphis Urbanized Area. Arlington is not located in the Memphis Urbanized Area. Under these circumstances, no *Tuck* analysis is required.<sup>4</sup>

4. Arlington is an incorporated community of 2,657 persons with an elected council and mayor. Furthermore, Arlington supports its own police force, fire department, public library, and public schools. Arlington has its own post office and zip code (38002).

5. For all of the foregoing reasons, we conclude that the public interest would be served by reallocating Channel 274C1 at Arlington, Tennessee. Channel 274C1 can be allotted at Arlington in compliance with the minimum distance separation requirements of the Commission's Rules at its existing reference coordinates.<sup>5</sup> The reference coordinates of vacant Channel 274A at Saint Florian, Alabama, can be changed to 34-50-12 NL and 87-37-27 WL, at a site 4.1 kilometers (2.5 miles) south of Saint Florian.

6. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. §801(a)(a)(A).

7. Accordingly, pursuant to the authority found in 47 U.S.C. Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b), and 47 C.F.R. Sections 0.61, 0.204(b), 0.283, and 1.420(i), IT IS ORDERED, That effective March 23, 2006, the FM Table of Allotments, 47 C.F.R. Section 73.202(b), IS AMENDED, with respect to the communities listed below, to read as follows:

<u>Community</u>	<u>Channel Number</u>
Arlington, Tennessee	274C1
Memphis, Tennessee	246C1, 259C, 283C1, 290C

8. IT IS FURTHER ORDERED, that the reference coordinates for Channel 274A at Saint Florian, Alabama, are amended to specify a site 4.1 kilometers (2.5 miles) south of Saint Florian, with reference coordinates of 34-50-12 NL and 87-37-27 WL.

9. IT IS FURTHER ORDERED, That pursuant to 47 U.S.C. Section 316(a), the license of Clear Channel Broadcasting Licenses, Inc., for Station WEGR(FM), Channel 274C1, Memphis, Tennessee, IS MODIFIED to specify operation on Channel 274C1 at Arlington, Tennessee, subject to the following conditions:

(a) Within 90 days of the effective date of this *Order*, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facility;

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<sup>4</sup> *Faye and Richard Tuck*, 3 FCC Rcd 5374 (1998) ("*Tuck*").

<sup>5</sup> The current reference coordinates for Channel 274C1 are 35-16-33 NL and 89-46-38 WL, at a site 10.8 km (6.7 miles) west of Arlington.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with 47 C.F.R. Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to 47 C.F.R. Section 1.1307 , unless the proposed facilities are categorically excluded from environmental processing.

10. Pursuant to 47 C.F.R. Sections 1.1104(1)(k) and (2)(k), Clear Channel Broadcasting Licenses, Inc., licensee of Station WEGR(FM), is required to submit a rule making fee in addition to the fee required for the applications to effectuate the changes specified above.

11. IT IS FURTHER ORDERED, That the Secretary of the Commission shall send by Certified Mail Return Receipt Requested, a copy of this Order to the following:

Mark N. Lipp, Esq.  
Scott Woodworth, Esq.  
Vinson & Elkins, L.L.P.  
1455 Pennsylvania Avenue, N.W.  
Suite 600  
Washington, D.C. 20004-1008  
(Counsel for Clear Channel Broadcasting Licenses, Inc.)

12. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

13. For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202) 418-7072.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief  
Audio Division  
Media Bureau